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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,751	02/23/2004	Timothy Daniel Kostar	13DV-14085 (07783-0113)	2241
31450 7590 07/31/2007 MCNEES WALLACE & NURICK LLC 100 PINE STREET P.O. BOX 1166 HARRISBURG, PA 17108-1166			EXAMINER MATZEK, MATTHEW D	
			ART UNIT 1771	PAPER NUMBER
			MAIL DATE 07/31/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/784,751

Applicant(s)

KOSTAR ET AL.

Examiner

Matthew D. Matzek

Art Unit

1771

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 July 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-20 and 28-31.

Claim(s) withdrawn from consideration: _____

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:

See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____



Continuation of 11. does NOT place the application in condition for allowance because: Examiner has considered Applicant's 1.132 Declaration filed 7/18/2007, but has found it unpersuasive because Douglas M. Carper has only established that the laminate with a woven intermediate layer is "characteristically distinguishable" from a laminate which uses an intermediate nonwoven layer. Examiner agrees that these two laminates would be distinguishable, but it fails to demonstrate how Tani, which discloses a laminate comprising unidirectional fiber prepreg layers with intermediate nonwoven layers, cannot be infiltrated to form the claimed invention. Applicant argues that just because Tani and Hillig et al. can be combined, their combination is not necessarily obvious. The motivation the combine the two references comes from Hillig et al. which teach that the chopped fibers provide the laminate with additional toughness. This does not change the principle or operation of the prior art being modified. Applicant argues that Hillig et al. is not concerned with forming a mass of ceramic fibers to be carborized and impregnated and are used to solve a different problem than as found in Tani and the combination would change the principle or operation of Tani. The chopped fibers of Hillig et al. serve to solve a problem that occurs when two continuous filament fabrics are placed next to one another. Tani discloses this same structure; therefore the improvement set forth in Hillig et al. would also be realized by Tani through its modification by Hillig et al. Applicant argues that the filaments in Hillig et al. are not preforms, but individual filaments. The chopped fibers of Hillig et al. would serve the same function of providing toughness to Tani. Applicant argues that the chopped fibers of Hillig et al. are never prepregs. Examiner has replaced the nonwoven of Tani with the chopped fiber nonwoven of Hillig et al. to solve a problem that exists between two continuous filament layers. The two continuous filament layers are present in both Tani and Hillig et al. Applicant argues that even if Tani and Hillig et al. are combined a continuous, stratified matrix rich layer between adjacent continuous fiber preform lamina would not be prevented. Examiner contends that if the two references were in fact combined such a matrix would be prevented because the claimed layer structure would be provided which prevents said matrix from forming. Applicant argues that a "mat" as claimed is not provided by Hillig et al. The nonwoven layer teaching has been provided by Tani, and Hillig et al. has been relied upon to teach the use of chopped fibers to resolve a toughness deficiency. The Hillig et al. reference just serves to modify the nonwoven fabric. A nonwoven fabric of chopped fibers would serve as the claimed "mat".



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